

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of C.D.H., a person under)	(Not For Official Publication)
eighteen years of age.)	
_____)	Case No. 20040900-CA
)	
C.D.H.,)	
)	F I L E D
Appellant,)	(April 13, 2006)
)	
v.)	2006 UT App 140
)	
State of Utah,)	
)	
Appellee.)	

Second District Juvenile, Farmington Department, 446937
The Honorable Diane W. Wilkins

Attorneys: Steven C. Russell, Salt Lake City, for Appellant
Mark L. Shurtleff and Christopher D. Ballard, Salt
Lake City, for Appellee

Before Judges Bench, Greenwood, and Billings.

BENCH, Presiding Judge:

C.D.H. appeals his conviction of three counts of sexual abuse of a child, second degree felonies if committed by an adult. See Utah Code Ann. § 76-5404.1 (2003). C.D.H. first contends that the juvenile court erred in limiting his cross-examination of A.G., an alleged victim.¹ C.D.H.'s counsel asked A.G., "Has Travis[, a neighborhood boy,] ever accused you of not telling the truth?" A.G. responded, "Yes." When defense counsel asked, "What did he say," the State objected. The juvenile court sustained the objection, holding that under rule 608(b) of the Utah Rules of Evidence this specific instance of conduct was not admissible. See Utah R. Evid. 608(b).

C.D.H. also asserts that the juvenile court erroneously applied rule 608(a) in striking the testimony of two character

¹There are two alleged victims in this case, twin sisters A.G. and H.G.

witnesses. C.D.H. called Brenda Hoyt and Marney Kingdom to testify regarding the alleged victims' general reputation for untruthfulness. When asked whether the reputation Hoyt referenced pertained solely to H.G., she admitted, "I don't know [if] it's just H.G. because I can't tell the twins apart." Further, although the record contains some evidence that Kingdom based her testimony on knowledge from the community, she admitted that she also based her testimony on personal incidents that occurred between her son and the twin girls. See State v. Lopez, 626 P.2d 483, 487 (Utah 1981) (stating that a character witness must base his testimony "upon his knowledge of the reputation of the other witness and not upon his individual opinion of his qualities or character" (quotations and citation omitted)).

"The general rule regarding the admission or exclusion of evidence is that the [juvenile] court's decision will not be reversed in the absence of an abuse of discretion." In re L.D.S., 797 P.2d 1133, 1137 (Utah Ct. App. 1990). "[A]lthough basic constitutional provisions of due process and rules of evidence should be adhered to, 'juvenile court proceedings are highly equitable in nature, designed to inquire in the welfare of the children, are not adversary in the usual sense, and may be conducted in an informal manner.'" Id. (quoting State ex rel. S.J., 576 P.2d 1280, 1283 (Utah 1978)). Arguably, because of its informal setting, the juvenile court could have admitted the disputed character evidence in this case. However, the record reflects that the court knew of the twins' reputation for untruthfulness from other evidence, such as Norman Gayle's testimony of the twins' reputation. Because any alleged error was harmless, we do not reverse. See State v. Loose, 2000 UT 11, ¶10 n.1, 994 P.2d 1237 ("We do not reverse a trial court for committing harmless error.").

We therefore affirm.

Russell W. Bench,
Presiding Judge

WE CONCUR:

Pamela T. Greenwood,
Associate Presiding Judge

Judith M. Billings, Judge